

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

QUY DINH NGUYEN,

Petitioner,

v.

BOB FERGUSON, *et al.*

Respondent.

CASE NO. 2:24-cv-01163-JLR-GJL

REPORT AND RECOMMENDATION

Noting Date: February 18, 2025

This is a federal habeas action filed under 28 U.S.C. § 2254. Currently before the Court is Respondents' Motion to Dismiss (the "Motion"). Dkt. 15. In the Motion, Respondents argue that this is "unquestionably Nguyen's second federal habeas petition challenging his 2012 state court judgment." Dkt. 15 at 4. They contend that the Petition (Dkt. 4) should therefore be dismissed for a lack of jurisdiction or transferred to the Ninth Circuit for consideration as an Application for Permission to File a Second or Successive Petition. Dkt. 15 at 7. Petitioner did not file a response to the Motion.

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1 On January 30, 2025, Petitioner filed an Application for Permission to File a Second or
2 Successive Petition with the Ninth Circuit. Dkt. 17. Because Respondents' Motion is premised
3 on Petitioner's failure to obtain the Ninth Circuit's permission for a second or successive
4 petition, the Court **RECOMMENDS** that the Motion (Dkt. 15) be **DENIED** as **MOOT**. A
5 Proposed Order accompanies this Report and Recommendation.

6 Pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b), the parties
7 shall have fourteen (14) days from service of this report to file written objections. *See also* Fed.
8 R. Civ. P. 6. Failure to file objections will result in a waiver of those objections for purposes of
9 *de novo* review by the district judge, *see* 28 U.S.C. § 636(b)(1)(C), and can result in a waiver of
10 those objections for purposes of appeal. *See Thomas v. Arn*, 474 U.S. 140, 142 (1985); *Miranda*
11 *v. Anchondo*, 684 F.3d 844, 848 (9th Cir. 2012) (citations omitted). Accommodating the time
12 limit imposed by Rule 72(b), the Clerk is directed to set the matter for consideration on February
13 18, 2025, as noted in the caption.

14 Dated this 4th day of February, 2025.

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16 A handwritten signature in black ink, appearing to read 'Grady J. Leupold', is written over a solid black horizontal line.

17 Grady J. Leupold
18 United States Magistrate Judge
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